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Application/Control Number: 10/784,415  
Art Unit: 3738  
Office Action Dated: November 22, 2005

REMARKS

Claims 1 and 6 have been amended to replace the term flat with linear. Support for this can be found in the specification on paragraph 23. Accordingly, no new matter is involved.

In the previous office action, Claims 1-9 were rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Benchetrit (US 6,916,326). Specifically the Examiner stated:

Benechetrit discloses a method for implanting surgical device (fig. 1), said method comprising: a providing a surgical device comprising an elongated flexible portion (2), an elongated flexible and substantially inextensible band portion (1, inherently inextensible to the point that it must retain 2 while in use) having a distal end, proximal end and longitudinal axis therebetween, said band portion being attached to said inflatable portion (form in a single piece, col. 6) along an inner face thereof, said band portion having a concave cross section (as seen at the edges thereof in the fig. 1 embodiment, conforms to the 2 profile), taken perpendicular to said longitudinal axis; and b. deforming said band so that it has substantially flat (read as flatter than original) cross section (fully capable inherent in the fig. 1 embodiment since the additional thickness of 1 on 2 would resist expansion when 2 inflates, thereby flattening 1 as 2 bulges), taken perpendicular to said longitudinal axis, by encircling said band around body tissue (and inflating).

The examiner states that the Benechetrit reference does flatten the bands profile, at least flatter than the original, when placed around the body tissue. However, during the Benechetrit method, after placement around tissue the band is still curved. This still creates potential sharp points on the band (but facing in the other direction) and may also have perceived cosmetic and quality issues. Applicant's invention is to place the band using a method which will result in the band portion being substantially linear after placement. Applicant has amended independent claims 1 and 6 to better state this.

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Therefore, Applicant submits that claims 1 and 6 are fully allowable over the prior art cited by the Examiner. In addition, because all other claims depend from either claims 1 or 6, likewise they are also allowable over the prior art. Therefore, Applicant respectfully request that the Examiner re-examine and favorably reconsider Applicant's claims in the form of a Notice of Allowance.

Respectfully submitted,

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